

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 12.6.106 pertaining to removal ) AMENDMENT  
of shelter )  
 ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. On February 19, 2016, the Fish and Wildlife Commission (commission) proposes to amend the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than November 13, 2015, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail [kgangstad@mt.gov](mailto:kgangstad@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.6.106 REMOVAL OF SHELTER ~~(1) Removal each day.~~

~~(a) (1)~~ Users of fishing shelters on the following waters shall remove such shelters in their entirety from the ice each day after fishing:

(i) through (v) remain the same but are renumbered (a) through (e).

~~(vi) (f)~~ Helena Valley Equalizing Regulating Reservoir.

~~(b) Users of fishing shelters on the following waters may not set said shelters on the ice until after sunrise and must remove said shelters in their entirety from the ice and from the area before sunset each day. This includes removal from all adjacent private and public property unless special permission is granted.~~

~~(i) Hauser Lake~~

~~(ii) Lake Helena.~~

(2) ~~Removal after season.~~ The owner of a fishing shelter shall remove the shelter from the area and from public property and properly dispose of it within seven days after the close of ice fishing season or within five days of receiving notification to remove. If there is no closure or removal notice or spring thaw precedes the closure date, a fishing shelter must be removed from the ice before being made irretrievable via over ice means and must be disposed of within seven days.

AUTH: 87-1-201, 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: The sunrise-sunset requirement for ice shelter removal on Hauser Lake and Lake Helena was put in place when Kokanee salmon were abundant and it was a common practice to set up shelters and leave them for long periods of time which blocked access for others. Kokanee abundance is no longer a factor and the requirement limits angling hours and is no longer necessary. The commission is also proposing amending section (1)(a)(vi) to state Helena Valley Regulating (rather than Equalizing) Reservoirs, for clarity. The internal catchphrases are being stricken to meet the format requirements of the Secretary of State.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Fish, Wildlife and Parks Fisheries Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail [fwpfsh@mt.gov](mailto:fwpfsh@mt.gov), and must be received no later than November 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Joel Tohtz at the above address no later than November 27, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 based on the number of anglers in Montana.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East 6th Street, Helena, Montana 59620-0701, or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site

may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

/s/ Dan Vermillion  
Dan Vermillion  
Chairman  
Fish and Wildlife Commission

Certified to the Secretary of State October 19, 2015.